

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
April 4, 2006**

Place: Room 206  
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Conze, Forman, Spain, Bigelow

STAFF ATTENDING: Ginsberg, Keating  
COURT RECORDER: Bonnie Syat

Chairman Damanti explained that the Planning and Zoning Commission has received draft resolutions regarding the first three agenda items, and that they have had an opportunity to review those drafts prior to the meeting. The following motion was made: That the Commission waives the process of reading the entire draft resolutions aloud. The motion was made by Mr. Bigelow, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the first agenda item:

**Coastal Site Plan Review #216, Flood Damage Prevention Application #236, Land Filling & Regrading Application #157, Tokeneke Elementary School, 7 Old Farm Road.** Proposing to raze the existing school, construct a new school with associated play fields and parking area, and perform related site development activities within regulated areas.

The Commission discussed the draft resolution and made several suggestions and corrects of typographical errors. The following motion was made: That the following, revised resolution be adopted to approve the project:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
April 4, 2006**

Application Number: Coastal Site Plan Review #216  
Flood Damage Prevention Application #236  
Land Filling & Regrading Application #157

Street Address: 7 Old Farm Road  
Assessor's Map #65 Lot #23

Name and Address of Applicant:	Tokeneke School Building Committee c/o Town of Darien 2 Renshaw Road Darien, CT 06820
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Name and Address of Property Owner:	Town of Darien 2 Renshaw Road
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Darien, CT 06820

Name and Address of  
Applicant's Representative: Randall Luther  
Tai Soo Kim Partners  
285 Farmington Avenue  
Hartford, CT 06105

Activity Being Applied For: Proposing to raze the existing school, construct a new school with associated play fields and parking area, and perform related site development activities within regulated areas.

Property Location: The subject property is located on the south side of Tokeneke Road at the southeast corner formed by its intersection with Old Farm Road.

Zone: R-1

Date of Public Hearing: March 7, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: February 23, and March 2, 2006

Newspaper: Darien News-Review

Date of Action: April 4, 2006

Action: GRANTED AS MODIFIED  
WITH STIPULATIONS

Scheduled Date of Publication of Action:  
April 13, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicant (the Tokeneke School Building Committee) proposes to build a replacement elementary school while keeping the existing school at the site in operation. Once the new

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school is available for use, the existing school will be demolished and the site will be regraded to establish replacement playfields, parking area and related facilities. A revised drainage system will be installed in accordance with the plans already approved by the Environmental Protection Commission (EPC). The regrading of the site to accommodate the replacement school and facilities will be minimal vertically, but will be spread over a large horizontal area.

2. For a time, there will be two schools on the site, the old school still in use and the new school under construction. During this construction phase, the site will be more crowded than it is today and there will be more traffic into and out of the site. The existing play fields will not be available for use by the school children, so a smaller temporary play area will be created. Construction access will be via Tokeneke Road and Old Farm Road, but these access points will be separate from the access drives used by teachers, students, and parents going to the existing school building. Construction areas will be segregated from the student accessible portions of the site.
3. A detailed storm water runoff management plan has been developed to address the temporary increase in runoff due to the temporary increase of impervious roof area. Once the existing school and parking area have been removed, and the areas restored to grass and playfields, the runoff from the site will actually be decreased compared to the current conditions.
4. The end result of the project will be a new school, playfields, parking area, and related facilities to accommodate the same use and associated uses and approximately the same number of students. Once the construction is completed, the amount of traffic to and from the site will be virtually identical to the present conditions.
5. A related Mandatory Referral report under Section 8-24 of the Connecticut General Statutes was issued on February 15, 2005 for this project.
6. On February 15, 2006 the EPC approved their permit application #108-2005 regarding the proposed work within the regulated area around the wetlands, particularly the proposed changes to the grades and the drainage system. That permit is incorporated into this approval by the Planning and Zoning Commission.
7. There was much discussion at the Public hearing about the accuracy and adequacy of the Traffic Report prepared by Barkan and Mess Associates. Apparently one inaccuracy involves the posted speed limit of Tokeneke Road (State Route 136). At present, there is no driveway access from Tokeneke Road into the site. The driveways are now to and from Old Farm Road. A new curb cut/driveway is proposed from Tokeneke Road. It will be a service entrance to the rear of the school (providing access for deliveries of fuel oil, to the janitors, food for the cafeteria, etc.) and it will not be for use by teachers, students, busses or parents. Relocated driveways on Old Farm Road will provide the only access to the site for teachers, students, busses and parents.
8. There are several traffic and safety concerns regarding the existing conditions on Tokeneke Road. This State Route provides access to Interstate 95 southbound and is frequently used

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as a shortcut by motorists traveling between South Norwalk/Rowayton and the interstate highway. The volume of traffic, particularly at peak morning times, is high. Another concern is the speed at which traffic flows past the elementary school. There is a traffic light at the intersection of Tokeneke Road and Old Farm Road, but it does not slow traffic when there is a green light. The speed and traffic considerations are of great concern to the members of the Planning and Zoning Commission, but it is recognized that they are outside the scope of this permit application, which concerns filling and regrading, coastal site plan review and flood damage prevention. Bruce Hill, Chairman of the Tokeneke School Building Committee, agreed during the Public Hearing to work with the local authorities as well as the Connecticut Department of Transportation (who will have jurisdiction over the proposed new driveway from Tokeneke Road) regarding ways to address the traffic volume and speed of travel. It was suggested that more strict enforcement of the speed limits and some form of flashing, warning devices of the speed limit in the vicinity of the school could improve the situation. The Planning and Zoning Commission supports such efforts and anything else that can be done to improve safety of the children in the vicinity of the school and other persons using the school facilities and general area.

9. The site is within the Coastal Boundary established within 1000 feet of mean high water of Long Island Sound and its tidal influenced waters. The proposed re-development of the site will not have any adverse impacts on coastal resources.
10. Portions of the site, including a small portion of the proposed replacement school are within the flood area subject to inundation during a 500 year design storm. Since the school might be used as an emergency facility during such situations, it must be above the expected 500 year flood level. This has been accomplished by the design of the structure and the slight regrading of the site.
11. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
12. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
13. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
14. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
15. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

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16. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
17. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
18. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #216, Flood Damage Prevention Application #236 and Land Filling and Regrading Application #157 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Except as may be modified by the permit granted by the Environmental Protection Commission, construction and filling and regrading shall be in accordance with the plans prepared by Tai Soo Kim Partners Architects, Metcalf & Eddy and/or CR3 Land Planners Landscape Architects and/or Kohler Ronan Consulting Engineers all dated January 20, 2006 and entitled:
  - Grading Plan Sheet C-1;
  - Utility Plan Sheet C-2;
  - Interim Erosion and Sedimentation Control Plan Sheet C-3;
  - Erosion and Sedimentation Control Plan, Sheet C-4
  - Erosion and Sedimentation Control Notes and Details, Sheet C-5;
  - Civil Details, Sheet C-6;
  - Civil Details, Sheet C-7;
  - Demolition Site Plan Sheet LSP;
  - Site Layout Plan Sheet L.1
  - Site Planting Plan, Sheet L.2;
  - Site Details Sheet L.3;
  - Site Details Sheet L.4;
  - Floor Plans Sheet A1.1;
  - Roof Plan Sheet A1.2
  - Building Elevations Sheet A3.1
  - Building Elevations and Sections Sheet A3.2;
  - Site Plan Lighting Sheet E2.5;
  - Site Plan Lighting Sheet E2.5
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to

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make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

- C. Because of the nature of the land filling and regrading portion of this project, and because it is a Town project under the control of the Building Committee, a performance bond for the filling and regrading is hereby waived.
- D. No rock crushing or similar processing of earth materials has been requested and no such activity is authorized or approved or permitted. If, such activity is to take place, it would require prior submission of a detailed application to the Commission for review and action as an amendment of this permit.
- E. A final "as-built" survey is hereby required to certify that the site improvements are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the storm drainage work has been properly completed in accordance with the approved plans.
- F. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies) and/or the nearby private street. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- G. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- I. This permit shall be subject to the provisions of Sections 815, 829f, and 1009 of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation and completion of the approved plans for site work, and regrading within one year of this action (by April 3, 2007). This may be extended as per Sections 815, 829f, and 1009.

All provisions and details of the plans, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

The motion was made by Mrs. Forman, seconded by Mr. Spain and unanimously approved.

Chairman Damanti read the next agenda item:

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**Coastal Site Plan Review #60-A, Flood Damage Prevention Application #48-A, Joseph Coppola, 6 Cross Road.** Proposing to construct a new single-family residence, swimming pool with associated terrace and stone wall and perform related site development activities within regulated areas.

The Commission discussed the draft resolution. The following motion was made: That the Commission adopt the following resolution to approve the project, subject to a number of conditions and stipulations:

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ADOPTED RESOLUTION  
April 4, 2006**

Application Number: Coastal Site Plan Review #60-A  
Flood Damage Prevention Application #48-A

Street Address: 6 Cross Road  
Assessor's Map #65 Lot #8-5

Name and Address of Property Owner: Joseph Coppola  
And Applicant: PO Box 213  
New Canaan, CT 06840

Name and Address of Applicant: Michael Fishman  
And Applicant's Representative: Stearns & Wheeler, LLC  
35 Corporate Drive, Suite 1000  
Trumbull, CT 06611

Activity Being Applied For: Proposing to construct a new single-family residence, swimming pool with associated terrace and stone wall and perform related site development activities within regulated areas.

Property Location: The subject property is located on the north side of Cross Road, approximately 525 feet east of its intersection with Tokeneke Trail.

Zone: R-1

Date of Public Hearing: March 7, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: February 23, and March 2, 2006

Newspaper: Darien News-Review

Date of Action: April 4, 2006

Action: GRANTED AS MODIFIED  
WITH STIPULATIONS

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Scheduled Date of Publication of Action:  
April 13, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application is to construct a new single-family residence, swimming pool with associated terrace and stone wall and perform related site development activities within regulated areas.
2. The applicant's representative noted within the application materials that the proposed activity will have no adverse impacts on flooding on adjacent properties and will withstand the flood depths, pressures, velocities, impact and uplift forces associated with the base flood. All mechanical and electrical equipment will be elevated to a minimum of elevation 12.0.
3. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
4. The site is within the Coastal Boundary established within 1000 feet of mean high water of Long Island Sound and its tidal influenced waters. The proposed development of the site, if properly controlled during the implementation, will not have any adverse impacts on coastal resources.
5. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.



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7. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
8. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program
9. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
10. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #60-A and Flood Damage Prevention Application #48-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and site regrading shall be in accordance with the plans entitled:
  - Map prepared for Cross Road Associates, LLC by Moody & O'Brien, LLC, scale 1"=30', last revised March 7, 2006.
  - Coppola Builders, Inc., Site Plan Site Layout, Site Grading, Stormwater Management, and Erosion Controls, by Stearns & Wheler, LLC, last revised 3/2/06.
  - Coppola Builders Inc., Cross Road Property, LLC, revision date 02 22 06, Sheets T1, A0-A7.
- B. It is important that the trees shown on the plans to be preserved are in fact protected during the development process and retained on the site. This is particularly true of the trees located between the proposed house and the tidal waters.
- C. The Commission strongly recommends that the applicant perform a pre and post blast survey of all adjacent structures if the owner determines that blasting will be necessary on the site.
- D. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the house foundation and the pool structure comply with the applicable flood damage prevention requirements.
- E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. In some locations, the proposed silt fences are located far to the east of the proposed activities and are therefore too close to the tidal wetlands. These environmental protection measures are to be relocated closer to the construction area and farther from the tidal wetlands. All of

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the sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

- F. To assure that the project is being implemented in strict accordance with the approved plans, during the construction and regrading process, the applicant's consulting environmentalist/engineer shall conduct frequent on-site inspections and shall submit detailed written, monthly reports to the Commission about the status of the sediment and erosion controls and related environmental protection measures to safeguard the natural resources in close proximity to the site work. The reports shall be submitted to the Commission staff by the first of each month and shall be sent to the applicant and all involved contractors. Any cited deficiencies in the environmental protections shall be corrected by the contractor(s) immediately. Failure to submit the reports and/or to properly install and maintain the protection measures and/or to correct the deficiencies shall be cause for the Commission to declare this approval null and void.
- G. Because of the requirement for monthly reports and the nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- H. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies) and/or the nearby private street. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- I. A final "as-built" survey is hereby required to certify that the site improvements are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the storm drainage work has been properly completed in accordance with the approved plans.
- J. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant shall submit verification from the project engineer that all aspects of the building construction have been completed in compliance with the approved plans and the flood damage prevention regulations.
- K. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- L. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

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- M. This permit shall be subject to the provisions of Section 829 f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (April 3, 2007). This may be extended as per Section 829f.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

The motion was made by Mrs. Forman and seconded by Mr. Spain. Voting in favor of the motion was Mrs. Forman, and Messrs. Damanti, Conze and Spain. No one voted in opposition to the motion. Mr. Bigelow abstained, as he was not at the public hearing. The motion passed by a vote of 4-0-1.

Chairman Damanti read the following agenda item:

**Coastal Site Plan Review #217, Flood Damage Prevention Application #235, Land Filling & Regrading Application #158, Hugh & Susan Balloch, 15 Edgehill Drive.** Proposing to construct an in-ground swimming pool with associated terrace and perform related site development activities within regulated areas.

There was a brief discussion regarding the draft resolution. The following motion was made: That the Commission adopt the following resolution to approve the project, subject to a number of conditions and stipulations.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
April 4, 2006**

Application Number: Coastal Site Plan Review #217  
Flood Damage Prevention Application #235  
Land Filling & Regrading Application #158

Street Address: 15 Edgehill Drive  
Assessor's Map #67 Lot #40

Name and Address of Property Owners: Hugh & Susan Balloch  
15 Edgehill Drive  
Darien, CT 06820

Name and Address of Applicant &  
Applicant's Representative: Wilder G. Gleason, Esq.  
Gleason & Associates, LLC  
455 Boston Post Road  
Darien, CT 06820

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Activity Being Applied For: Proposing to construct an in-ground swimming pool with associated terrace and perform related site development activities within regulated areas.

Property Location: The subject property is located on the south side of Edgehill Drive approximately 300 feet east of its southernmost intersection with Searles Road.

Zone: R-1

Date of Public Hearing: March 7, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: February 23, and March 2, 2006

Newspaper: Darien News-Review

Date of Action: April 4, 2006

Action: GRANTED AS MODIFIED  
WITH STIPULATIONS

Scheduled Date of Publication of Action:  
April 13, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicants propose to construct an in-ground swimming pool with associated terrace and perform related site development activities within regulated areas. After original submittal of the plans, revisions were made to relocate the pool and associated retaining walls farther from the tidal wetlands. The outside of the proposed lower retaining wall must be at least 8' (eight feet) away from the closest point of the tidal wetlands.
2. The site is within the Coastal Boundary established within 1000 feet of mean high water of Long Island Sound and its tidal influenced waters. The proposed re-development of the site, if properly controlled during the implementation, will not have any adverse impacts on coastal resources.

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3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
5. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
6. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
8. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
9. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
10. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
11. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #217, Flood Damage Prevention Application #235 and Land Filling and Regrading Application #158 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and filling and regrading shall be in accordance with the plans entitled:
  - Balloch Residence, 15 Edgehill Drive, by RI Pools, Inc., two sheets of retaining wall and pool structure details dated 02/09/06.
  - Code Complying Septic System & Pool Site Plan by Stearns & Wheler, revised twice, most recently 2/06.
  - Improvement Location Survey Lot Number 1 prepared for Hugh M. Balloch, Susan V. Balloch, by Ryan and Faulds, LLC, last revised December 27, 2005.
  - These plans reflect the revisions to keep the outside of the lower retaining wall at least 8' (eight feet) away from the closest point of the tidal wetlands. The other drawings and plans need to be similarly revised to incorporate this change.

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- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. To assure that the project is being implemented in strict accordance with the approved plans, during the construction and regrading process, the applicant's consulting environmentalist/engineer shall conduct frequent on-site inspections and shall submit detailed written, monthly reports to the Commission about the status of the sediment and erosion controls and related environmental protection measures to safeguard the natural resources in close proximity to the site work. The reports shall be submitted to the Commission staff by the first of each month and shall be sent to the applicant and all involved contractors. Any cited deficiencies in the environmental protections shall be corrected by the contractor(s) immediately. Failure to submit the reports and/or to properly install and maintain the protection measures and/or to correct the deficiencies shall be cause for the Commission to declare this approval null and void.
- D. Because of the requirement for monthly reports and the nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- E. A final "as-built" survey is hereby required to certify that the site improvements adjacent to the coastal recourses and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the work has been properly completed in accordance with the approved plans.
- F. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies) and/or the nearby private street. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- G. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- I. This permit shall be subject to the provisions of Sections 815, 829f and 1009 of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation and completion of the

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approved plans for site work, and regrading within one year of this action (by April 3, 2007). This may be extended as per Sections 815, 829f and 1009.

All provisions and details of the plans, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

The motion was made by Mr. Spain, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

**Informal discussion only regarding Michael Joseph's potential relocation to the Service Business (SB) Zone.**

Mr. Damanti said that some years ago, the Commission had approved the Ben & Izzy Fruit and Vegetable sales activity as an ancillary use within Nielsen's Florist and Garden shop. He said that the catering business would seem to be less intrusive than a retail use, but the proposed catering business is not specifically allowed in Service Business Zone. Mr. Ginsberg said that he understands that approximately 75% of the business would be preparing food that would be brought to other sites, and providing that type of catering service. The other 25% of the business would be from customers who would walk in to purchase food on the spot. He also understood that there would be much food preparation, but very little cooking, and no ovens are needed on the site.

Gerry Nielsen said that it is truly a "service business" type of operation that would not be appropriate within the downtown area because it would not generate foot traffic. He said that the Service Business Zone requires the sale of big, bulky items or the use of outdoor areas for storage, and this business does not really comply with that type of requirement other than the fact that they will have several delivery vehicles that need to be parked on the site. He said that the chairs, tents and other party items that the catering customers may need are actually rented from other sites and not from Michael Joseph's Catering.

Mr. Spain said that the use would be good for the community to allow, at this particular site, and in the Service Business Zone in general. He said that perhaps the Planning and Zoning Commission should amend the Zoning Regulations to allow this type of use in the entire Service Business Zone, and that it might be appropriate to allow a temporary permit to allow it as an ancillary use to the Nielsen's Florist and Garden Shop in the near future.

Mr. Bigelow said that perhaps it is time for the Planning and Zoning Commission to reexamine the restrictions on all the commercial zones, and to become more inclusive with the new types of businesses that have developed in recent times. He said that it seems to be time for a general reassessment of the uses allowed in commercial zones.

Mrs. Forman said that the applicant should proceed with this particular use at this time, and submit a formal application so that the Commission can act on the request, and then in the meantime, the

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Commission will consider whether to allow catering businesses in the Service Business (SB) Zone in general.

Mr. Damanti said that the catering business operators needs to work with the staff to get an application submitted as soon as possible for temporary approval, and the Commission will work on updating the Zoning Regulations to allow this use in this zone.

Chairman Damanti read the following agenda item:

**Requested Amendment of Coastal Site Plan Review #24-B, Roger Smith, 19 Butlers Island Road.**

The Commission members discussed the materials that had been submitted requesting permission to perform long deferred maintenance on walkways along the cliff areas of this waterfront property. They also noted that there would be some slightly newer landscaped areas created up near the top of the steep-sloped areas, and that all of these items were clearly discussed in the letter from project Architect Dean Telfer. After considerable discussion, the Commission authorized the administrative amendment of the past approvals to allow the renovation work and slight new garden and walkway work as detailed in the submitted materials.

Chairman Damanti read the following agenda item:

**Requested Modifications of Coastal Site Plan Review # 195, Flood Damage Prevention Permit # 211 and Land Filling and Regrading Permit # 126, Charron Residence at 44 Contentment Island Road**

The Commission members discussed the submitted materials that highlighted the previously approved conditions and the requested modifications. They noted that the submitted materials were clear and unanimously agreed to modify the past approvals in accordance with the request for amendment.

Chairman Damanti apologized to the members of the public, indicating that they would not get an opportunity to discuss the remaining agenda items, except for the one item on the Public Hearing agenda. The other matters would be discussed at the meeting of April 18, 2006. The following motion was made: That the Commission start the Public Hearing. The motion was made by Mr. Bigelow, seconded by Mrs. Forman and unanimously approved. Chairman Damanti read the following agenda item:

**PUBLIC HEARING AT 8:30 P.M.**

**Business Site Plan #156-A, Darien-Rowayton Bank/Dolcetti, Inc., 995-1003 Boston Post Road.**

Proposing to raze the existing buildings at 995 and 1003 Boston Post Road (on Lots #27 and #28) and to construct a new mixed-use building with related landscaping, open space plaza, and parking, and to perform related site development activities. A shared parking agreement with 975-987 Boston Post Road and 2 Squab Lane (Lots #29, #30, and #34) is proposed to serve all of the subject properties. Those subject properties are located on the north side of Boston Post Road at the



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northeast corner formed by its intersection with Day Street, and are shown on Assessor's Map #73 as Lots #26, #27, #28, #29, #30 and #34 in the CBD Zone.

Director of Planning Jeremy Ginsberg explained that the Environmental Protection Commission had submitted comments regarding the application, and that the Architectural Review Board had discussed the matter at its March meeting, but had not yet been satisfied with the architectural design. He said it is on their agenda to be discussed at the April 18, 2006 ARB meeting. He understands that the applicant is going to submit revised architectural plans and additional information regarding parking and traffic movement. He said that it appears necessary that the Commission will need to continue the Public Hearing because of the submission of this additional information.

John Bowes of 316 Mansfield Avenue explained that he is Chairman and CEO of the Darien Rowayton Bank. He said that the Bank was founded by and funded by over 300 local investors to serve local businesses and residents. He said that the intent is to create a community bank that is locally-oriented and is a retail type of bank. He said that they discussed the conceptual site development plan with the Planning and Zoning Commission last fall, and explained that it involved two phases. The first phase would be the development of the property that the bank leases on the corner of Boston Post Road and Day Street. This would include the bank on the ground floor and support offices for the bank on the second floor. There would be two drive-through lanes for patrons of the bank. Access to the site would be from a Boston Post Road entrance, and there would be no driveway out to the Post Road from the parking lot. Vehicles would exit the parking lot and the drive-through lanes via Day Street. A shared parking agreement will be created for the bank property and the adjacent Dolcetti properties to the east and northeast. The second phase of development will include additions to and new construction on the Dolcetti properties. In all, there will be six small parcels of land consolidated into one coordinated development proposal. Mr. Bowes said that there would be sufficient parking on the site and in the area to support the variety of proposed uses and the proposed density of development.

Mr. Bowes said in response to discussions with the Planning and Zoning Commission, Darien Revitalization Incorporated (DRI), and other groups, that they have modified the plans to include: better coordination with other parking facilities on adjacent properties; coordination with the municipal parking area on Grove Street; modified the architectural design of the building; reduced the density and intensity of development; and made the bank building slightly larger on the ground floor to get 2,000 square feet of retail space for a retail tenant. He said that the proposed development result may total about 47,000 square feet of floor area and 46 parking spaces on a 1.5 acre area. There would be space for six new small retail shops, one high-end retailer occupying approximately 8,000 square feet, and space for two new restaurants.

Project Architect Neil Hauck reviewed the site plans and said that the combined properties form a trapezoid from Day Street to Squab Lane to the Dunkin Donuts property to the Boston Post Road and back to Day Street. He said that the existing buildings are one and two-story buildings with various setbacks from the streets. There are several small parking lots on the rear of the site, and some are connected and some are isolated. He said that the first phase would be construction of the new bank and the shared parking lot. He noted that a new driveway would allow access from Grove Street into the sites. A new walkway would also encourage pedestrians to walk from Grove Street

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through the site to the Boston Post Road. From there they could enter the bank, the retail shops on the Dolcetti property, or go to other businesses in the area.

Mr. Conze said it would be necessary to create a stairway from the Squab Lane (train station) parking lot down to the interior of the project site. Mr. Hauck agreed that some connection is appropriate.

Mr. Hauck said that they plan to handle traffic flow by closing the existing driveway next to Haig Jewelers and creating a new, one-way entrance driveway from the Boston Post Road into the site. Once into the site, a motorist would have three options – if they turn right, they would go into the parking lot behind Dolcetti's restaurant (soon to be Ching's Kitchen). If they go left, they will go into the drive-through lanes for banking services, and if they go straight, they will have access to a parking area behind the bank or an interior driveway to connect to Grove Street. Mr. Hauck said that they have provided the general concept on the site plans and provided for specific site details. He reviewed the square footage details of the proposed buildings. These include a mix of uses.

Mr. Hauck noted that there would be access to the basement via an interior stairway from the bank and an elevator within the bank building. There would be a tower on the southwest corner of the proposed bank building to provide a focal point and a special architectural anchor feature. The southwest corner of the bank will be at the intersection of the Boston Post Road and Day Street.

Architect Steven Gibson reviewed the floor plans of the bank and retail building. In response to a question, he said that the second floor space has been designed as office area for the bank, but could be rented out as separate offices to other tenants if the bank does not need that much space. He said that within five years, the plan is for the bank to occupy the entire second floor.

Dan Dolcetti said that he hopes to implement his aspect of the project within six years. He said that this time frame is necessary due to existing leases for existing tenants, and he will honor those leases. He said that the addition to the front building (on the Boston Post Road) will be done much more quickly. He said that the stairs that Mr. Conze suggested from the train station and Squab Lane parking area down into the interior of the site will be worked into the plans.

Project Architect Neil Hauck said that the first part of the Dolcetti phase to be implemented will be the removal of the Compleat Angler building and construction of a large addition on the west side of the existing Dolcetti building. They will also be adding a second floor above the existing one-story sections of the Dolcetti building.

John Bowes said that it is important that the Planning and Zoning Commission see the project as two distinct phases. The first phase is the approval of the bank building and the site development to accommodate the bank building. He said they have provided both the concept for the entire development, including Phase II, but they have provided only the specifics regarding the development of Phase I. He hopes that the Commission can approve Phase I for the bank construction and provide to the Dolcettis a conceptual approval for how many square feet of new building will be allowed and the uses to be allowed within the new building. It is important that the concept of Phase II not delay the approval of Phase I.

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In response to questions, Mr. Dolcetti said that his existing building contains approximately 2,430 square feet of restaurant and 648 square feet of retail space (the dry cleaner and the former Haig Jeweler's space). The large proposed addition would be a 4400 square foot, first-floor addition on the left side of the building that would be a retail store. It would have a 4400 square foot second floor addition as well. This 8,800 square foot space would be attractive to a high-end retailer. First floor additions would be constructed behind the restaurant and behind the other retail space. Approximately 200 square feet of second-floor office space would be created. Mr. Dolcetti said that new, unfinished basement area would be created for storage use.

In response to questions, Mr. Dolcetti said that the existing restaurant contains 45 seats, and the proposed expansion of that restaurant would accommodate an additional 30-45 seats. There would also be an outdoor dining area constructed behind the restaurant. The number of outdoor seats has not yet been determined.

Mr. Dolcetti said that there will also be a new commercial building constructed on the rear portion of the property. It will take the place of the existing that currently contains T Party Antiques (and formerly contained the Darien News Review). This building would be 5,000-6,000 square feet of new restaurant space on the upper level and 2,000 square feet for T Party Antiques on the upper level. An 8,000 square foot lower level retail space would be created. The lower level would be at the same grade as the parking lot to be shared with the bank. The upper level would be at the same level as the Squab Lane parking area adjacent to the train station.

Ed Gozdz of 15 McLaren Road explained that he has been a resident of Darien for four years, and has been a chef for more than 20 years. He wants to open a restaurant in Darien, but said that it is very expensive to do so. It would cost at least 1.5 million dollars, and it is not worth it to open a restaurant with less than 80-90 seats. Preferably, you'd have at least 125-140 seats. He said that a new restaurant at the Dolcetti site would need "to raise the bar" for Darien. It will need to start out as the most expensive restaurant in Town, and it might still be for a while, but other restaurants will come up to that level or try to attain that level of quality and service.

Mr. Bowes said that the application is asking for very specific approval for the bank and the joint parking area at this time, and only asking for conceptual approval with specific parameters for the Dolcetti property. He said that it is critical for the bank to move forward in the near future. Mr. Bowes said that some of the issues that have been raised as part of the review process have included parking, traffic flow and density. He met with the Municipal Parking Authority (the Board of Selectmen) last night. He reviewed a map showing a quarter mile radius around the proposed site, and indicated that there are over 1,000 municipal, commuter and railroad parking spaces within that quarter mile radius that are all available for use in the evenings and on weekends. He said that the availability of this many common parking spaces helps to justify the density and intensity of the proposed development.

Mr. Bowes said that the Traffic Authority has decided to make Day Street a right-turn only as it intersects with the Boston Post Road. He said that that decision by the Traffic Authority is separate and distinct from the bank proposal. He said that the bank's proposal did not cause that decision by the Traffic Authority, and that the bank will abide by that decision.

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With respect to the density, Mr. Bowes said that they know they are not providing the number of parking spaces required per the Regulations, but said that they feel that the proposal is in conformance with the Ten Year Plan for the downtown area.

Mrs. Forman noted that at the end of Phase I, there will be 46 parking spaces available on the combined site to accommodate the employees and clients of the bank, the new retail space in the bank building, and the new office space in the bank building, as well as the existing restaurant and retail spaces on the Dolcetti site. She noted that at the end of Phase II, those same 46 parking spaces would accommodate all of the existing uses plus the additions to the Dolcetti building adjacent to the Boston Post Road and the new 16,000 square foot Dolcetti building that will take the place of the small T Party Antiques building. She wondered if there had been any analysis of the daytime parking needs for employees and clients of all of the existing and new floor space to be created.

Mr. Bowes said that all employees of the bank will park off-site at the Mechanic Street municipal parking lot and elsewhere.

Dan Dolcetti said that when Tom-E-Toes and later Dolcetti's Restaurant were proposed 10 years ago, they were told the restaurant would need 50 parking spaces on the site. They had to get a variance from the Zoning Board of Appeals to allow the existing 28 parking spaces on the site. He said that they were warned that there would be parking problems, yet they have never had any clients or workers complain about not being able to find a parking space. He said that 85% of their employees come by bus or train. He said that there has never been a problem with patrons being unable to find a parking space. Ching's will have 13 employees who will take a van to work.

David Sullivan, Traffic Consultant from Barkan & Mess, said that there were a number of traffic concerns raised by the peer review of his report by Howard Mirsky. He noted that the Police Department had separately decided that Day Street would be a right-turn only onto the Boston Post Road. He submitted an updated traffic report that addresses the concerns raised by Mr. Mirsky's report. With respect to parking, Mr. Sullivan noted that specific users result in better data, and at this time they do not have specific users selected for the spaces because the Dolcettis do not know if the parking spaces will get approval. He said that the site can be modified to accommodate each use as it comes along, or the use will need to be modified depending on the availability of parking. He said that in this case it would be possible for the employees to park off site so that all of the on-site parking spaces will be available for patrons. He also noted that restaurants are primarily busy at nighttime and on the weekends, and that is when the commuter and municipal parking facilities will be available. He said that many people will walk to the site to use the bank, the retail uses, the cleaners, and the restaurants.

Mr. Bowes said that they have obtained approval to use the commuter and municipal parking lots after 5 p.m. and on weekends. He noted that there were many parking lots available in the area.

Dan Dolcetti said that for years there has been some discussion about the conversion of the parking spaces of the south side of Squab Lane from commuter parking to parking spaces limited to 2-3 hour use so that they can be used by patrons of the nearby businesses. He thought it might be possible for the Board of Selectmen to consider this idea over time and not allow any new

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commuter permits to be issued for the area. In this way the existing commuter permits will expire and the area can be converted to use by retail patrons.

Flora Smith of 42 Hamilton Lane said that the Commission should obtain and read the resolution passed by the Board of Selectmen on April 3, 2006. She said that they did approve the off-hours use of municipal and commuter parking lots by anyone and everyone, and did not approve sole use of those parking areas for any one retail user or for any individual property owners. She said that the traffic pattern to be created will make it extremely difficult for a patron to leave the proposed bank and Dolcetti common parking area and head eastbound.

Howard Mirsky, Professional Engineer, said that he was engaged by the Town to conduct a peer review of the submitted traffic and parking materials. He said that the Traffic Authority's decision to change Day Street to be a right turn only will improve traffic flow, and it will likely result in more people going through the train station parking lot in order to leave the Grove Street and Bank of Darien Rowayton/ Dolcetti property to them head eastbound. He said that he had only a few minutes to review the new traffic report submitted by Mr. Sullivan, but said that it does not address the parking issue. The concern with the original study was the lack of detail about the sufficiency of on-site parking. He said that typically a detailed count of the available parking spaces in the area is quantified so that everyone will know how many parking spaces will be available or might be available for use on a typical day. He said that the concept of shared parking does come into play, but in this case it is never quantified to justify the extent of the proposed development. He said that no data has been provided that would allow for a core analysis of whether the parking spaces will be sufficient.

Director of Planning Jeremy Ginsberg said that he understands that the Town has discontinued issuing any new permits for the Center Street parking lots. The only permits available for municipal parking are at the Mechanic Street parking lot, which is under the railroad tracks and across the Boston Post Road from the subject property.

A young woman named Christine said that she works at 17 Old King's Highway South, and that her office overlooks the Center Street parking lot. She said that the lot is never full, except on Sundays (for church).

John Bowes said that there are over 1,000 parking spaces within a quarter-mile radius, and only 400 or so of these are for commuters. He acknowledged that the bank did not ask for or get exclusive use of the municipal parking spaces or commuter parking spaces from the Board of Selectmen. They are available to any and all residents and visitors. He said that the change of the Squab Lane parking area from commuter orientation to retail patron orientation was not discussed by the Board of Selectmen on April 3<sup>rd</sup>.

Dan Dolcetti said that any prospective retail tenant will look at the availability of parking as one of their criteria. He said that he does not want to create a situation where there is insufficient parking because then he will not be able to get a good retainer to rent the space.

Mr. Damanti explained that the application is a Business Site Plan application, and that the Commission has only 65 days to act upon the application. In order to continue the Public Hearing, the Commission needs to request an extension from the applicant so that the additional information

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received at the meeting tonight could be reviewed and input from the Architectural Review Board could be received after they meet on the 18<sup>th</sup> of April. The logical date for the continuation of the Public Hearing by the Planning and Zoning Commission is on May 2<sup>nd</sup>. On behalf of the Commission, he asked if the applicant would grant an extension of 45 additional days for the Commission to process the application.

Mr. Bowes agreed to the extension. Attorney Rucci said that they will follow up with a letter so that the Commission can have that written agreement for the file.

Flora Smith said that everybody wants a revitalized downtown and new stores and new restaurants, but that the Commission needs to pay particular attention to the parking needs and the traffic flow.

The following motion was made: That the Commission continue the Public Hearing regarding this matter on May 2, 2006. The motion was made by Mr. Conze, seconded by Mr. Spain and unanimously approved.

**RESUMPTION OF GENERAL MEETING (if necessary and time permits)**

The Commission will discuss the other pending application items on April 18<sup>th</sup>.

**Any Other Business (Requires two-thirds vote of Commission)**

The motion was made by Mr. Spain, seconded by Mr. Conze and unanimously approved to go into other business to discuss one item. Mr. Ginsberg explained that the Darien Sport Shop at 1127 Boston Post Road is requesting to convert the restaurant use on the third floor back into retail space and storage area. The Commission members noted that the restaurant use is a Special Permit use in that zone, and that the retail and storage facility is what the building was originally designed and used for. The Commission unanimously authorized the conversion of the space back to retail and storage space.

There being no further business, the meeting was adjourned at 10:35 P.M.

Respectfully submitted,

David J. Keating  
Assistant Director, Planning and Zoning